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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 EOLAS TECHNOLOGIES
12 INCORPORATED,

13 Plaintiff,

14 v.

15 GOOGLE INC.,

16 Defendant.

Case No. 3:17-cv-01138-JST

**JOINT STIPULATION AND
~~[PROPOSED]~~ ORDER TO MODIFY
COURT DEADLINES**

17 EOLAS TECHNOLOGIES
18 INCORPORATED,

19 Plaintiff,

20 v.

21 AMAZON.COM, INC.,

22 Defendant.

Case No. 3:17-cv-03022-JST

**JOINT STIPULATION AND
~~[PROPOSED]~~ ORDER TO MODIFY
COURT DEADLINES**

23 EOLAS TECHNOLOGIES
24 INCORPORATED,

25 Plaintiff,

26 v.

27 WAL-MART STORES, INC.,

28 Defendant.

Case No. 3:17-cv-03023-JST

**JOINT STIPULATION AND
~~[PROPOSED]~~ ORDER TO MODIFY
COURT DEADLINES**

1 Pursuant to Civil Local Rule 6-2, and Civil Local Rule 7-12, Plaintiff Eolas Technologies
2 Incorporated (“Eolas”) and Defendants Google Inc. (“Google”), Amazon.com, Inc. (“Amazon”),
3 and Wal-Mart Stores, Inc. (“Walmart”) (collectively, “Defendants”), by and through their
4 respective attorneys, hereby submit the following Joint Stipulation, as follows:

5 WHEREAS, on September 14, 2017, the parties filed a stipulation for a short extension to
6 the upcoming case deadlines (Case No. 3:17-cv-03022-JST, ECF No. 390) to provide time for a
7 further meet and confer on Eolas’s proposal that these cases be stayed pending resolution of the
8 pending Motion for Order to Show Cause Regarding McKool Smith’s Violation of Prosecution
9 Bar (the “Prosecution Bar Motion”) (Case No. 3:17-cv-03022-JST, ECF No. 262);

10 WHEREAS, on September 20, 2017, the Court granted the September 14, 2017 stipulation
11 extending the upcoming case deadlines (Case No. 3:17-cv-03022-JST, ECF No. 395);

12 WHEREAS, the parties have further conferred on Eolas’s earlier request to stay the three
13 cases pending resolution of the Prosecution Bar Motion;

14 WHEREAS, the parties have also conferred on next steps regarding resolution of the
15 Prosecution Bar Motion as instructed by the Court, and Amazon and Eolas have submitted their
16 respective proposed orders (Case No. 3:17-cv-3022 ECF Nos. 399 & 400);

17 WHEREAS, Eolas’s proposed order requests that, if the Court does not grant Eolas’s
18 proposal that no further discovery on the prosecution bar issue is required, then all three cases be
19 stayed pending resolution of the propriety of *in camera* review of any communications between
20 McKool Smith and Eolas related to prosecution of the patent-in-suit that occurred between July
21 22, 2014, and October 20, 2014 (Case No. 3:17-cv-3022 ECF No. 399);

22 WHEREAS, the Defendants oppose Eolas’s proposed substantive relief, namely that either
23 no further discovery occur or the Court merely consider the “propriety” of *in camera* review. But,
24 while Defendants do not oppose Eolas’s requested stay provided it is of limited and certain
25 duration, Defendants are potentially prejudiced by uncertainty about when, and whether a stay will
26 occur;

1 WHEREAS, specifically, Defendants face uncertainty whether a stay could be entered near
2 to, or after, September 28, 2017, the current deadline for Defendants to file their upcoming
3 Summary Judgment Motion, which could prejudice Defendants by delaying Eolas's response for
4 an indeterminate amount of time while the case is stayed;

5 WHEREAS, to allow the Court time to review and consider the respective proposed
6 orders, and to issue an order (the "Forthcoming Order") on the issues presented therein, including
7 Eolas's alternative request for a stay of the three cases;

8 NOW THEREFORE IT IS HEREBY STIPULATED AND THE PARTIES JOINTLY
9 REQUEST

- 10 (i) that Defendants' deadline for their Opening Brief on Summary Judgment be
11 extended to seven (7) days after the entry of the Forthcoming Order (unless that
12 order stays the cases, thereby vacating all deadlines);
- 13 (ii) that all other case deadlines, including the deadlines for further briefing, be
14 extended by a like amount; and
- 15 (iii) the parties shall promptly meet and confer after the entry of the Forthcoming Order
16 and within five (5) days file an appropriate proposed revised schedule.
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1 DATED: September 26, 2017

Respectfully submitted,

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ATTESTATION

I, Richard G. Frenkel, am the ECF user whose user ID and password authorized the filing of this document. Under Civil L.R. 5-1(i)(3), I attest that all signatories to this document have concurred in this filing.

DATED: September 26, 2017

/s/ Richard G. Frenkel

Richard G. Frenkel

~~PROPOSED~~ ORDER

Plaintiff Eolas Technologies Incorporated and Defendants Google Inc. ("Google"), Amazon.com, Inc. ("Amazon"), and Wal-Mart Stores, Inc. ("Walmart") (collectively, "Defendants") have stipulated to the below modification of the case schedule.

Defendants' deadline for their Opening Brief on Summary Judgement, currently set for September 28, 2017, is extended to seven (7) days after the entry of a Forthcoming Order addressing the issues raised in the Proposed Orders submitted by Amazon and Eolas relating to the pending Motion for Order to Show Cause Regarding McKool Smith's Violation of Prosecution Bar (Case No. 3:17-cv-3022 ECF Nos. 399 & 400);


and that the other case deadlines, including the deadlines for further briefing, be extended by a like amount;

and that the parties shall promptly meet and confer after the entry of the Forthcoming Order and within five (5) days file an appropriate proposed revised schedule.

The parties' joint stipulation is GRANTED. The case shall proceed according to the above schedule.

PURSUANT TO THE PARTIES' STIPULATION, IT IS SO ORDERED.

DATED: September 26, 2017



Honorable Jon S. Tigar
United States District Judge